IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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WRIT PETITION NO : 1965 of 2001

Between:

Smt. K.Veena W/o.Ramakanth,
O/o. The Director, Institute of Genetics,

Osmania University,
Begumpet, Hyderabad.

..... PETITIONER

AND

1. The Vice-Chancellor, Osmania University,
   Hyderabad-500 007.
2. The Registrar Osmania University,
   Hyderabad-500007.
3. The Asst. Registrar (Administration) Osmania University,

   Hyderabad-500007.
4. The Director, Institute of Genetics,
   Osmania University Begumpet,
   Hyderabad.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction more particularly in the nature of Writ of Mandamus declaring the action of the respondent in termination the service of the petitioner by issuing the impugned proceedings No.484/6/89/Estt.III, Dt.2.1.2001 which was served on the petitioner only on 3.2.2001 issued by the 2nd Respondent with out following the rules as illegal, arbitrary and violative of Art.14,16 & 21 of the constitution of India.

Counsel for the Petitioner: MR.C.RAMESH SAGAR
Counsel for the Respondents: MR.DEEPAK BHATTACHARJEE

The Court made the following:

ORDER:

Heard Sri C.Ramesh Sagar, learned counsel appearing on behalf of the petitioner and Sri Deepak Battacharya, learned standing counsel appearing on behalf of the respondents.

The petitioner herein who has been working as a Dietician of the respondents university files this Writ Petition, *inter alia*, seeking Writ of Mandamus declaring the proceedings No.484/6/89/Estt.II, dated 02.01.2001 passed by the first respondent terminating her services as illegal, bad and also violative of Articles 14, 16 and 21 of the Constitution of India.

The case of the petitioner in brief is that on completion of graduation course in B.Sc and also passing P.G. Diploma in Nutrition and Dietics, she was appointed with the respondents herein as Dietician through proceedings dated 25.08.1989 after approval of the Vice-Chancellor and the same being continued. Though she was given time scale of pay, her case was not being taken up for regularization. It is also pointed out that she had unblemished record of service and in respect of the same the impugned orders are passed where under her services were terminated. By the said orders the petitioner was terminated on 03.02.2001, hence, the Writ Petition.

In the counter affidavit filed on behalf of the respondents primarily it is stated that having regard to the nature of appointment, the petitioner has no right and further in view of the fact that “there is no post of dietician in the budget of the Institute, the post was not being notified one nor there exist any such post and also the scale mentioned in the appointment orders is the scale and post of Nurse from which her consolidated pay was paid”. The petitioner cannot seek any relief as such, now she is working in the existing vacant post and continuing in service. It was further pointed out that there is no prior approval such as required at the time of appointment and therefore, no right can be created in her favour, hence, the Writ Petition is liable to be dismissed.

The learned counsel appearing for the petitioner strenuously contended that having regard to the length of service as spoken by the petitioner that since the date of inception and thereupon no complaint whatsoever. There is no justification as such to terminate her services by way of impugned order. Further the reasons as given in the counter affidavit are forthcoming for the first time and no such reasons have been mentioned in the impugned order nor the petitioner was informed the same.

Sri Deepak Battacharya, learned standing counsel appearing on behalf of the respondents to support the impugned action of the respondents complained that the petitioner has no right to regularise her services and that the respondents have rightly terminated the petitioner from service as there is no post exists. Further during the course of arguments, both the counsel have also pointed out that at the time of admission, this Court had granted interim direction in W.P.M.P.No.2459 of 2001 dated 07.02.2001, by which order alone the petitioner is continuing in the post and working as dietician.

During the course of arguments the counsel on either side has pointed out that the petitioner has been subsequently appointed to the post of Lab Assistant as per proceedings of the University No. MR-5/322/73/Estt.III, dated 25.01.2005. Therefore, nothing survives in this Writ Petition. Further by taking in to consideration of the submissions made across the bar from both sides and also keeping in view the long service rendered by the petitioner all along for the last more than almost a decade and also the fact that the petitioner was subsequently appointed to the next higher post of Lab Assistant (Science) as per the proceedings dated 25.01.2005, it would suffice in the interests of justice to consider the petitioner's claim to regularise her services which she has been rendered all along. There is no dispute to the effect that the petitioner had been in service and the respondents are extracting the same from her. Though she has been paid consolidated amount of salary, it has come to light in the day that it has been repeatedly reported by the courts that continuance of temporary employee or ad hoc employee as such, for a long time, is totally unsustainable and should be deprecated.

In view of the same, the Writ Petition is disposed of directing the petitioner to file a comprehensive detailed representation to the respondents, which itself in turn can as well be referred to Government for necessary approval, sanction, promotion whatsoever as required under law for treating the services all along and

regularization of the same, and giving all such benefits to which she is entitled to. The petitioner shall file a representation within a period of two weeks from this date and the same shall be disposed of in terms of the aforesaid directions within a period of four weeks from the date of receipt of a copy of this order. No costs.

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17-03-2005

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To

1. The Vice-Chancellor, Osmania University,
   Hyderabad-500 007.
2. The Registrar Osmania University,
   Hyderabad-500007.
3. The Asst. Registrar (Administration) Osmania University,

   Hyderabad-500007.
4. The Director, Institute of Genetics,
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   Hyderabad.

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